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UNCLAS SECTION 01 OF 02 TASHKENT 001479

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E.O. 12958: N/A

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SUBJECT: Uzbekistan: Amnesty Decree Announced, Human Rights Activist Released

11. (SBU) Summary: The Government of Uzbekistan announced an amnesty resolution last week, through which some prisoners and criminal defendants may apply to the court for clemency. The resolution includes several restrictions, which may serve to limit the number of political and religious prisoners that are eligible to apply. The resolution may already be yielding results, however, as Oyazimhon Hidirova, a human rights activist on trial in Jizzakh, was released, reportedly under the provisions of the resolution. End Summary.

The Amnesty Resolution

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12. (SBU) On August 28, 2009, the Uzbek Senate adopted an amnesty resolution in connection with the 18th anniversary of Uzbekistan's independence. "Amnesty" is defined to include one of three actions: full exemption from further incarceration, transfer to a prison with lighter conditions, or stopping a criminal case at the pre-trial or trial stage from going forward. The resolution lays out several categories of persons who are eligible to apply for amnesty, including women, minors, men over 60 years old, citizens of foreign countries, persons who were convicted of less serious crimes and do not pose a threat to society, seriously ill or disabled people, and convicts whose remaining sentences do not exceed two years from the time of issuance (convicts with between two and three years remaining may, however, apply for transfer to a better facility). Those people who qualify under the named categories now have three months to apply for amnesty under the resolution.

13. (SBU) There are several restrictions included in the resolution. For example, those people convicted of participating in the activities of banned organizations or crimes "against peace and security" are only eligible if they are first time offenders and can prove that they are "following the way of correction" in prison, which generally means signing a full confession, asking for forgiveness, and showing a clean record of behavior while in prison. Convicts who "systematically violate" the terms of their incarceration are also not eligible to apply under the resolution.

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14. (SBU) This year's resolution differs from years past in some respects. For example, according to the resolution, amnesty will not be used to reduce prison terms without immediately releasing the prisoners. Prison sentences were apparently commonly reduced under previous amnesty decrees, and officials gave no explanation for the change. Also, under the heading of "judicial reform," application of the act has been transferred from parliament to the judicial branch, and therefore will be administered by the courts. Because there is little true separation of powers here, however, the change is not likely to have practical implications.

15. (SBU) Local human rights activists are already complaining that religious and political prisoners are unlikely to be amnestied under this resolution. Prison authorities have broad discretion in determining whether a prisoner is "following the way of correction" or "systematically violating" the terms of incarceration, and thus have great influence over amnesty eligibility. Based on the frequent claims of torture and mistreatment of these prisoners already, activists may well be right in predicting that prison officials are unlikely to allow for early releases of such

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convicts. (Note: Prison officials are frequently criticized for arbitrarily extending the prison terms of religious prisoners, in particular, for violation of "internal prison regulations.") Religious prisoners are also more likely to be excluded from amnesty because they are so often convicted of charges including being "a member of a banned organization," such as Hizb-ut Tahrir or Nur.

Rights Activist Amnestied

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16. (SBU) Despite concerns that the amnesty resolution will not be an option for political and religious prisoners, one human rights activist has already been released. Oyazimhon Hidirova, a farmer from Jizzakh, was arrested on July 28 on thirteen charges, including fraud, tax evasion, hooliganism, and embezzlement. It was widely believed that the charges were in fact due to her work on farmers' issues and complaints she had written to local and regional government, as well as to President Karimov himself. (See reftel.) Hidirova's lawyer, Ziyodullo Razzakov, informed us that she had short trial, but before the verdict could be announced, their request for amnesty under the new resolution was granted. Hidirova was released unconditionally and was told that her record would be wiped clean.

17. (SBU) Bakhtiyar Hamroev, another human rights activist from Jizzakh and colleague of Hidirova, told us that that Hidirova has some health problems, specifically mentioning liver problems, resulting from her month-long incarceration. He also stated that she was guilty only of trying to expose corrupt officials, and that she would still be in jail if not for the efforts of Human Rights Watch, Frontline, and local diplomatic missions, specifically mentioning the Swiss Embassy, who provided funding for Hidirova's attorney's fees.

Comment

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18. (SBU) Officials have indicated that an "amnesty list," with actual names of people to be released, will be issued before the end of Ramadan on September 20. Post hopes that some of the most egregious and higher-profile cases will be included in that list. For the lesser-known political and religious prisoners, however (estimated recently by one local NGO at 25-30 political prisoners and 6,000-10,000 religious prisoners) applying for amnesty under this resolution is their only hope of release. Unfortunately, the cards are often stacked against them, as the terms of incarceration, particularly for religious prisoners, specifically exclude them from eligibility for amnesty, and prison officials, whether motivated by orders from above or internal prison issues, often stand in the way. Thus, while Post is pleased to report the release of Hidirova, the amnesty resolution should not be expected to significantly change the landscape with regard to political and religious prisoners. This makes the recent renewal of prison visits by the ICRC all the more important.

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